

***United States Court of Appeals
for the Second Circuit***



**APPELLEE'S
APPENDIX**

74-1410

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 74-1410

UNITED STATES OF AMERICA

—against—

ANDREW FUREY,

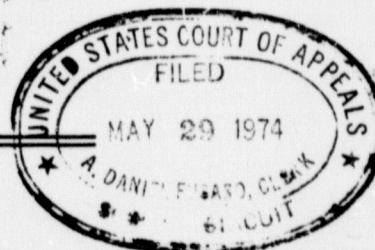
Appellee,

Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*



PAGINATION AS IN ORIGINAL COPY

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73 CR 608

DOOLING, J.

100
CRIMINAL DOCKET

TITLE OF CASE

THE UNITED STATES

U.S.

ANDREW FUREY

CLOSED

ATTORNEYS

For U.S.: D. DePetris

For Defendant:

Dis possess with intent to distribute narcotics.

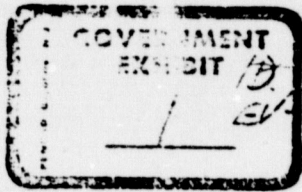
[illegible]

DATE	PROCEEDINGS
6/21/73	Information filed.
6/21/73	Before JUDD, J. - Deft present with counsel-Deft. signs form agreed to be treated as a juvenile offender.
11/27/73	Magistrate's file 73i2243 and 72M51 inserted into criminal file 73CR608
12-13-73	Before BARTELS, J. - Case called- Deft and counsel John Dwyer present- Deft moves to dismiss on the grounds that it has been over 6 months- Decision reserved- Motion to be submitted in writing- Case adjd to 12-20-73 at 4:30 P.M. for motion
12-18-73	Notice of motion to dismiss the indictment, inspection, etc. filed
12/20/73	Affidavit of D. DePettis filed.
12/24/73	Memorandum of Law of deft filed.
12/24/73	Notice of Readiness for Trial filed.
12/24/73	Before DOOLING, J. - Case called- Deft and counsel present-Conference held and adjd to 12/21/73 for hearing
12/24/73	Before DOOLING, J. - Case called- Deft and counsel present-Deft after being advised of his rights consents to being tried as a juvenile delinquent-Hearing Ordered and begun-Both sides rest-Decision reserved.
12-27-73	By DOOLING, J. - Memorandum and Order filed that motion for an order dismissing the juvenile proceedings is denied- And that alternative motion to produce for inspection certain documents is denied, etc.
1-2-74	Attorney's Affirmation filed
1-2-74	Notice of motion for stay of trial presently scheduled for 1-9-74 filed, (motion dated 12-31-73)
1-2-74	By DOOLING, J. - Order filed that motion for a stay is denied and trial will convene at 2:00 P.M. on 1-9-74
1-2-74	Before DOOLING, J. - Case called- Deft juvenile and counsel present- Deft juvenile moves to suppress letter, etc.- Hearing ordered and begun on motion to suppress- Ordered and begun- Hearing contd to 1-3-74
1-3-74	Before DOOLING J - Case called - deft Juvenile & counsel R. Mooney present - Hearing resumed - Govt rests - Motion to suppress is denied - Parties stipulate that record of suppression hearing to constitute the record of adjudication - hearing concluded - Findings on the record Court finds that the delinquency charge was committed by the deft and he is a juvenile delinquent - bail continued - sentence adjd without

DATE

PROCEEDINGS

1-21-74	Judgment received from the Court of Appeals filed -Ordered that a stay pending determination of said petition be denied. In view of this ruling the petition is dismissed as moot.
3-1-74	Before Dooling J - case called - adjd to 3-8-74 (sentence of Andrew F.
3-8-74	Before DOOLING, J.- Case called- Deft and counsel- On the finding that deft is a juvenile delinquent he is committed until he reaches the age of 21(deft advised of his right to appeal)- The deft will be released pursuant to the provisions of T-18, U.S.C. Sec. 3148 and 3146(a)(4) upon the posting of a surety bond of \$5,000.00 provided that the notice of appeal be filed today and the case be brought on for hearing in the U.S. C of A on the earliest possible date set by that court on prompt application to the court for a hearing date
3-8-74	Judgment and Commitment filed- certified copies to Marshal
3-8-74	Notice of appeal filed
3-8-74	Docket entries and duplicate of notice of appeal mailed to court of appeals
3-19-74	3 stenographers transcripts filed (dated Jan. 2, Jan. 3 and Mar 8, 1974)
3/22/74	Stenographer's transcript of 6/21/73 filed.
3-25-74	Record on Appeal certified and mailed to the Court of Appeals.
3-28-74	Acknowledgment received from court of appeals for receipt of record on appeal
3-28-74	Magistrate's file 74 M 361 inserted into CR file.
4-22-74	2 volumes of stenographic transcripts filed (pgs 1 to 150)
4-23/74	Supplemental Index on Appeal certified and mailed to the Court of Appeals filed.
4-26-74	Acknowledgment received from the Court of Appeals for receipt of supplemental index to record.



Consent To Search

12/19/72

9AM

I Doris Furey Here By, give my
Consent To ~~SEARCH~~^{SP} THE SEARCH OF MY HOME
By AGENTS OF THE CUSTOMS Agency Service
Knowing ~~THAT~~^{SP} THAT ANYTHING THAT IS
FOUND MAY BE USED AGAINST ME & AFFILIATES
BEING ADVISED OF SAME BY THE
AFFORMENTIONED AGENTS.

Doris Furey

Mrs Doris Furey

S/A Oberholser
S/A Joseph G. Allen

Government's Exhibit 1-A**(Letter dated November 17)**

Nov. 17

Brothers dear, Bud and Ed.

What's happening in New Delhi? There ain't nothing happening in New York!!! Believe me you guys are really lucky you split when you did. The United States is getting fucked-up in a wierd way. Dig this, 1100 lbs of hashish was taken in N.Y.C. 300 lbs of weed were taken in Deer Park. It's getting to be almost impossible to score decent dope at a good price and all the while the people around me are either splitting or going strait. I just hope i can split before they fuck me up. I hope that being away from the states for a while hasn't built up images of what its like here. I hope you guys keep trucking and find a nice new HOME and good people in another place.

Through-out all the shit though there has been some good moments like hearing from you guys and i received Ed's letter 2 days ago with dope. I keep hearing about how you guys are sending me lbs. None have arrived yet but i understand how it is to get these things together so i'm being very patient. I have some money saved and if you send an lb to me at the going rate now in N.Y. i'll be able to FLY with the bread to you guys MYSELF in India which would be far-out. Right now i'm counting on your lb. to get me out of here and save my head and soul.

I wanted to send some pictures to you guys but photo-mat couldn't develop my film. Can you send me undeveloped pictures? I'll develope them.

Flash: phone just rang and good hash might come thru. Oh, god these deals are always falling thru. Wish i was there! Please send candle's. This place has been so bad

on my head i'm doing downs. Have to stop have to get out, mother yelling, police sirens: "Alright son here's your rights" . . . "What fucking rights?" i say. "You don't give young freaks one fucking right you pigs."

Please help me to be free! So i can get out of this country. I had a dream last night about afganistan. It was really weird. I was in the middle of a semi dessert and all of a sudden a cramped land rover came over a hill and you both were in the back with other people. The dream seemed so real i just screamed i was so happy to see you but i acually screamed and woke myself up and so it ended.

I hope you guys are staying HEALTHY—it's so important—I also hope your money is good but if it isn't i'll send you all the bread i have which isn't that much but if you really needed it i could send it by telegram. I just got a new triple beam scale!! Works great! If you don't have bread by the time you get this letter i'm enclosing \$560. American dollar so you won't be completely broke if you are at all. Buy some good food for yourselves and just think of me.

OVER

LOVE ANDREW

AEROGamme

IF ANYTHING IS ENCLOSED
THIS LETTER WILL BE SENT
BY ORDINARY MAIL.

12/1/72

AND

3

First fold here

← TH



PAKISTAN POSTAGE

75
PAISA

PEW FUREY
JEFFERY LANE
NORTH BAYLON,
NEW YORK 11703
U.S.A.

Third fold here →

Sender's name and address:—

BUDDY FUREY
c/o AMERICAN EMBASSY
KARACHI, W. PAKISTAN

— Second fold here —

A
7

Brian & Timmy blew

Dear Andrew

I hope you're home right now, to read this letter
way for you. Today, here, is ~~the~~ Tuesday. On ~~the~~
mail out 1 kilo of opium, in one parcel. It
have your name on it, ~~and~~ with a false return
package, telegram to the American Embassy
saying that you ["RECEIVED PARCEL"] → that
be sent immediately. There will be no cash in
parcel, (more if you come thru - plenty more
sell the K, cable the money by American Ex.
(generally 1 week))

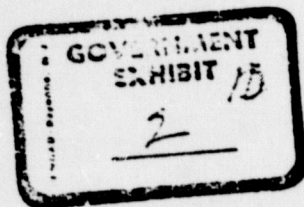
the form of traveler's checks, or whatever you
thru; we must receive \$2000. There are 4 p
This is the big time. If you go and sell
you can sell 6 or 7 and make a couple h
for your head. Any more would not be se
Keep in touch, and good luck.

it!! Don't
You!!

Tuesday
Dec. 5, 1972



...tter, because there is something on the
Wednesday, tomorrow, we will
will say "candles" on it. It will
name. As soon as you get this
% F.F., Karachi, West Pakistan,
it's all you ~~do~~ need to say. It must
with it, so the price for this first
) has to be \$2000. As soon as you
sends, % F.F. Karachi. Send it in
ay they do it. You must come
people involved, so don't fuck up.
1/4 pounds for at least \$400/each,
undred, and keep ~~one~~ one or two ounces
cool, since opium is addictive!!
with all your telegrams. Bud & Ed..



A 9

CLYCORAN NYO 6R 15762:00
14777:01

BIN 105

THE DEPARTMENT OF THE TREASURY BUREAU OF CUSTOMS		MAIL VIOLATIONS FORM		<input type="checkbox"/> AMT (air) <input type="checkbox"/> BMT (surface)		Month Day Year	
Parcel turned over to	Mail Detention Number 72-566	PORT New York				DEC 14 1972	
PACKAGE CHARACTERISTICS		SIZE LENGTHWISE		COUNTRY			
<input checked="" type="checkbox"/> Air <input type="checkbox"/> Surface	<input checked="" type="checkbox"/> Parcel Post <input type="checkbox"/> Letter Class Mail <input type="checkbox"/> Tape or Film Mailers <input type="checkbox"/> Prints (AO Mail) <input type="checkbox"/> Registered	<input type="checkbox"/> Under 6 Inches <input checked="" type="checkbox"/> 6 to 12 Inches <input type="checkbox"/> 12 to 18 Inches <input type="checkbox"/> Over 18 Inches		<input type="checkbox"/> APO-FPO New York <input type="checkbox"/> United Kingdom <input type="checkbox"/> West Germany <input type="checkbox"/> Netherlands <input type="checkbox"/> France <input type="checkbox"/> Spain <input type="checkbox"/> Italy <input type="checkbox"/> APO-FPO San Fran <input type="checkbox"/> Korea <input type="checkbox"/> Vietnam <input type="checkbox"/> Thailand <input type="checkbox"/> India <input type="checkbox"/> Israel <input type="checkbox"/> Morocco <input type="checkbox"/> Jamaica <input type="checkbox"/> Mexico <input type="checkbox"/> Columbia <input checked="" type="checkbox"/> PAKISTAN Other (Specify)			
METHOD OF DETECTION		DECLARED AS		Any unusual package characteristics?		Was Detection Referred to the Agency Service	
<input type="checkbox"/> Opening <input type="checkbox"/> Dog Program <input type="checkbox"/> X-Ray Program <input type="checkbox"/> Suspect List <input type="checkbox"/> Mail Blitz <input checked="" type="checkbox"/> Other SNIF		<input type="checkbox"/> Gift under \$10 <input type="checkbox"/> Gift under \$50 <input type="checkbox"/> Personal Possessions <input type="checkbox"/> Returned US Goods <input checked="" type="checkbox"/> Other (Specify below) WAX CANDLES		BROWN PAPER OUTER WRAPPER PARCEL # 159		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
TYPE OF VIOLATION		DECLARED VALUE		How was contraband disguised?		REMARKS	
<input type="checkbox"/> Weapons <input type="checkbox"/> Ammunition <input type="checkbox"/> Heroin <input checked="" type="checkbox"/> Opium <input type="checkbox"/> Hashish <input type="checkbox"/> Marijuana <input type="checkbox"/> Pills <input type="checkbox"/> Other Narcotics		<input type="checkbox"/> Under \$1 <input type="checkbox"/> \$1 to 9 <input type="checkbox"/> 10 to 24 <input type="checkbox"/> 25 to 49 <input type="checkbox"/> 50 to 99 <input type="checkbox"/> Over \$100 <input type="checkbox"/> Not Shown		FALSE DECLARATION		AM 12-14-72 UNDER METER STAMP	
Description of seizure. OPIMUM WRAPPED IN GREEN TAPE + COTTON		Sender's Name and Address		Addressee's Name and Address			
		FATHER FRANCIS ST. PATRICK SCHOOL SADDAR KARACHI PAK		ANDREW FUREY 3 JEFFERY LANE NORTH BABYLON NY 11703			
<input type="checkbox"/> Weight of seizure in pounds. EST 1 LB		<input type="checkbox"/> Date mailed as shown in APO canceler.		If APO Parcel show FULL 5 digit ZIP Code as shown in the cancel as well as any unit number.		MAIL VIOLATIONS REPORT CUSTOMS FORM 3424 V Jan 1972	

GROSS 1 1/4 LB

SNIF

Armand Mitnick
ARMAND MITNICK

SENDER		MAILED FROM	
<input type="checkbox"/> Army APO	<input type="checkbox"/> Army APO	<input type="checkbox"/> AF APO	<input type="checkbox"/> AF APO
<input type="checkbox"/> AF APO	<input type="checkbox"/> AF APO	<input type="checkbox"/> Naval FPO	<input type="checkbox"/> Naval FPO
<input type="checkbox"/> Naval FPO	<input type="checkbox"/> Naval FPO	<input type="checkbox"/> Marine FPO	<input type="checkbox"/> Other
<input type="checkbox"/> Marine FPO	<input type="checkbox"/> Other		
THEATER			
Pacific	European	All Other	
<input type="checkbox"/> Vietnam	<input type="checkbox"/> Germany	<input type="checkbox"/> Morocco	
<input type="checkbox"/> Thailand	<input type="checkbox"/> England	<input type="checkbox"/> Turkey	
<input type="checkbox"/> Korea	<input type="checkbox"/> Spain	<input type="checkbox"/> Canal Zone	
<input type="checkbox"/> Other Asia	<input type="checkbox"/> Other	<input type="checkbox"/> All Other	

11

PAID

14

PAID
1000
1000
1000

A

10

GIFT PARCEL
WAX CANDLES
MERRY CHRISTMAS

ANDREW FUREY
3 DEEREN LANE
NORTH BABYLON

NEW YORK 11703

USA

A

11

9.2 j1-mj

A 12

LABORATORY REPORT

SAMPLE		DATE 12-18-72		LAB. NO. P30341	
SEIZURE		RECEIVED 12-11-72		TSUSA NO.	
SUBMITTED BY S/A J. CORCORAN RM. 352		PORT NY, NY.		LAB NY	
NAME OF IMPORTER OR DEFENDANT DEFT. ANDREW FUREY LONG ISLAND NY.		MAKER		ENTRY NO. <input type="checkbox"/> OR SEIZURE NO. CASE # NYO 6-11777.01	
OTHER DATA				MARKS	
				ORIGIN	
INFORMATION REQUIRED IF CONTROLLED					



The package contains crude opium.

(Analysis made on 0.5 gram sample removed from inside of package,
sample consumed in analysis).

SIGNATURE OF CHEMIST
M. WEINBERG

SIGNATURE OF CHIEF CHEMIST
R. E. LAM

DELIVER ARTICLE TO →	ENTER NAME OF PERSON YOU AUTHORIZE TO RECEIVE THE MAIL	
FORWARD TO ADDRESSEE AT →	ENTER FULL ADDRESS TO WHICH MAIL IS TO BE SENT	
SIGNATURE OF ADDRESSEE OR AGENT		DATE
OFFICE RECORD OF DISPOSITION WHEN DELIVERY CANNOT BE MADE		
<input type="checkbox"/> FORWARD TO ADDRESSEE <input type="checkbox"/> RETURNED TO SENDER (Name and Address)		
<input type="checkbox"/> UNCLAIMED <input type="checkbox"/> MOVED LEFT NO ADDRESS <input type="checkbox"/> REFUSED <input type="checkbox"/> OTHER (Specify) DATE BY (Signature)		

* GPO: 1972 OF-455-235 325-643

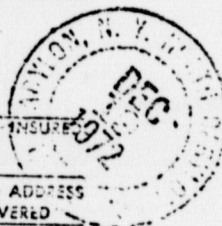
NOTICE OF MAIL ARRIVAL
OR ATTEMPTED DELIVERYARTICLE
NO.

YOU MAY	COME FOR MAIL IN PERSON AFTER _____ M. _____ (Date)	Mail is at
	Bring this notice—Identification and signature required. REQUEST RE-DELIVERY—Notify your carrier or post office.	

NAME AND ADDRESS

ANDREW FUREY
3 JEFFERY

ARTICLE MAILED AT FOREIGN	<input type="checkbox"/> REGISTERED <input type="checkbox"/> INSURED <input type="checkbox"/> CERTIFIED
<input type="checkbox"/> RETURN RECEIPT Signature and Date required <input type="checkbox"/> REQUESTED	<input type="checkbox"/> DELIVER TO ADDRESSEE ONLY <input type="checkbox"/> SHOW ALSO ADDRESS WHERE DELIVERED
RECEIVED SIGN HERE <i>Andrew Furey</i>	
BY 12 PC Form 3849 Oct. 1971	DATE DELIVERED 12-19-72
DELIVERED BY (Signature)	



1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICAN, :

5 -against- :

6 ANDREW FUREY, :

7 Defendant. :
8 -----y

9
10 United States Courthouse
11 Brooklyn, New York
12 June 21, 1973
13 2:00 p.m.
14
15
16

17 B e f o r e :

18 HONORABLE ORRIN G. JUDD, U.S.D.J.
19
20
21

22 ILENE GINSBURG
23 ACTING OFFICIAL COURT REPORTER

24 I hereby certify that the foregoing is
25 a true and accurate transcript from my
stenographic notes in this proceeding.

Ilene Ginsburg

Official Court Reporter
U. S. District Court

1 APPEARANCES: 2

2 ROBERT A. MORSE, ESQ.,
3 United States Attorney for the
4 Eastern District of New York

5 BY: DAVID DE PETRIS, ESQ.,
6 Assistant United States Attorney

7 JAMES PUREY, ESQ.,
8 Attorney for Defendant

9 * * * *

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1
2 THE COURT: How did this get to be my
3 case?

4 MR. DE PETRIS: I believe it is because
5 you are the Miscellaneous Judge. It was put
6 on the Miscellaneous calendar.

7 I believe today we are going to sign
8 the consent form.

9 THE COURT: I see. All right.

10 Let's see. This is a charge against
11 Andrew Furey.

12 How old are you?

13 THE DEFENDANT: 18.

14 THE COURT: When did you become 18?

15 THE DEFENDANT: Last April.

16 THE COURT: Is this a juvenile delinquent
17 act, if he is over 18?

18 MR. DE PETRIS: He was under 18 at the
19 time of the transaction.

20 THE COURT: How far did you go to school?

21 THE DEFENDANT: To the tenth grade, end
22 of tenth grade.

23 THE COURT: Then you are able to under-
24 stand the problems?

25 THE DEFENDANT: Yes.

1
2 THE COURT: Have you been recently under
3 the care of a doctor or psychiatrist?

4 THE DEFENDANT: No.

5 THE COURT: Have you recently been treated
6 or hospitalized for narcotics addiction?

7 THE DEFENDANT: No.

8 THE COURT: Your father is here with you,
9 and that is your mother?

10 MR. PUREY: I am the uncle, his father is
11 deceased.

12 THE COURT: You are charged with knowingly
13 and intentionally possessing a pound and a quarter
14 of opium.

15 Now, you have a right not to say anything
16 about the matter. We are here to see if you
17 want to be committed as a juvenile. You may be
18 committed for a period not exceeding your
19 majority and you may not receive a sentence
20 greater than authorized by statute which is 15
21 years.

22 If you are found to be a delinquent, you
23 would not be indicted by a Grand Jury or lose
24 your civil rights but there will be a hearing.

25 If you want a jury you will have one and

1
2 you can bring in witnesses.

3 If you do not consent to that you can
4 be treated as a youthful offender which isn't
5 always done in drug cases.

6 You would be under supervision for a
7 period up to six years.

8 Have you had time to consider whether
9 you want to be proceeded against as a juvenile?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. De Petris, is the
12 Attorney General satisfied to have this person
13 prosecuted against as a juvenile?

14 MR. DE PETRIS: Yes.

15 THE COURT: I am sure you are satisfied
16 with your uncle to represent you?

17 THE DEFENDANT: Yes.

18 THE COURT: Once you consent to be
19 proceeded against as a juvenile you cannot change
20 your mind.

21 You have discussed this with your uncle?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Have any promises or threats
24 been made to induce you to consent to being
25 proceeded against in this matter?

1

THE DEFENDANT: No, your Honor.

2

3

THE COURT: Hand me the forms.

4

MR. DE PETRIS: Yes.

5

THE COURT: All right, let Andrew sign

6

it.

7

Then the information will be filed and

8

the case assigned in the regular course and

9

what do we do about custody in the meantime?

10

MR. DE PETRIS: The defendant is presently

11

out on \$5,000 bail and we have no objection to

12

that.

13

MR. FUREY: May I move to release it

14

at this time, your Honor. He is living with his

15

parents.

16

THE COURT: All right.

17

It is your responsibility to bring him

18

here, Mr. James Furey, and you are notified

19

of a hearing.

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MR. FUREY: Yes, thank you, your Honor.

21

* * * *

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